

**TOWN OF NEWSTEAD - ZONING BOARD OF APPEALS**  
**MINUTES of August 31, 2004**

Present: Bill Kaufman  
Dave Wakeman  
Ike Cummings  
John Olaf  
Rebecca Baker, Zoning Officer  
Christine Falkowski, Recording Secretary

John Olaf led the Pledge of Allegiance to the flag.

Bill called the meeting to order at 7:33 PM. Ike motioned to waive the reading of the minutes from the July 20, 2004 meeting, seconded by John and all approved.

**Public Hearing – 11520 Main Street, Clarence – Kelly J. Smith**

A public hearing was held to consider the area variance request to park four – five unlicensed cars at the rear repair shop at 11520 Main Street, Clarence. Code allows the outdoor parking or storage of one unlicensed and unregistered vehicle displayed in public view for sale, storage or maintenance for a period up to one year.

Christine read the public hearing notice. No written comments were received. John Smith stated that the repair shop makes minor repairs on cars from the auto auction every Tuesday. Inside the shop, seven cars are being worked on at one time, and outside they would like to park four to five. Each Tuesday, the repaired cars go back to the auction, and the auction sends him more cars to repair. He will be putting up a fence across the end to block the view from Main Street. Rebecca stated that a car repair shop does not require a special use permit, as a car dealer does.

Dave motioned to close the public hearing, seconded by Ike, and all approved.

Dave motioned to approve the variance, with the condition that the fence be erected, seconded by John and all approved.

**Public Hearing – 6910 Cedar Street – Tammy Mages**

A public hearing was held to consider the area variance request of 10 feet to erect an attached two-car garage on the south side of the house at 6910 Cedar Street. Code states the minimum side yard in the R-A district shall be 10 feet for each dwelling.

Tammy Mages stated that the garage would be placed right on the property line that adjoins with Bedford's mum fields. She currently has a building permit for a 1.5 car garage (18' wide). She does not wish to put the garage at the rear of her home, as she plans to build a family room addition (also on the same property line) in the future. Bedford's is agreeable to the placement on the line. Bedford's has 450' feet of frontage, which has the split potential for three 150' building lots. Buying 10' from Bedford's would hinder a potential subdivision or sale. Also, the garage eaves would overhang onto Bedford's property. An easement from Bedford's instead would be a possible option.

Ike motioned to close the public hearing, seconded by Dave, and all approved.

Ike motioned to table the decision for approximately one week to allow Tammy to explore other options (a) purchase more land (b) get an easement (c) build a smaller garage, seconded by John, and all approved.

**Final Decision on four variance requests - Akron Airport - Christian Airmen, Inc.**

Dave motioned to approve a resolution adopting a determination of non-significance addressing SEQR, seconded by Bill, and all approved. A Negative Declaration will be issued identifying areas of concern.

- (1) Area variance request of 65 square feet for a 65 square foot sign for visibility from the runway. Commercial signs are not permitted in the R-A zone.

The 5' x 13' sign would be put on the service building and will replace two existing signs. It would advertise BP fuel and not be visible from any road. The purpose is to disclose the availability of fuel to aircraft.

- Benefit cannot be achieved by other means; must be seen by pilots
- Does not cause undesirable change in neighborhood
- Request is not substantial
- Will not have adverse physical or environmental effects
- Difficulty is self-created, but this sign only replaces two existing signs

Ike motioned to approve the variance for a commercial sign in the RA zone, seconded by John, and all approved.

Town of Newstead Zoning Board of Appeals  
Minutes of August 31, 2004  
Page 2

- (2) Use variance request to construct two 10-bay T-Hangars in the western portion of the terminal. The Airport is planning to replace the westernmost hangar and construct an additional 10-bay T-Hangar building to the west. This action would be an expansion of a non-conforming use in the R-A zone.
- Cannot realize reasonable return; substantial financial evidence was provided
  - Hardship is unique and does not apply to substantial portion of district
  - Will not alter essential character of neighborhood
  - Hardship is not self-created. There is no other use for the property since it is an airport and has been for many years. Also, grant award terms must be followed.

Dave motioned to approve this variance for two 10-bay hangars to be constructed in the RA zone, seconded by Ike, and all approved.

- (3) Area variance request of 2' for an 8' high chain link inadvertent entry fence with gated access. Fences cannot exceed 6' in height in the R-A zone and (4) Use variance request to construct an eight-foot high chain link perimeter inadvertent entry fence along the current boundary of Akron Airport property by enclosing usable portion of airport owned lands. Action would be an expansion of a non-conforming use in the R-A zone.

It was decided that both requests would be considered area variances.

- The benefit cannot be achieved by other means as it is an FAA requirement
- The character of the neighborhood would not change
- Request is not substantial (2' height variance)
- Adverse physical or environmental effects may be (1) snow removal at Scotland Road (2) deer pattern may change, which cannot be controlled other than posting a "watch for deer" sign where they eventually cross on East Avenue.
- Difficulty is self-created. The FAA recommends airport fencing now, but will soon become a requirement.

Dave motioned to approve the variance for an 8' fence around perimeter of airport-owned property, seconded by Ike, and all approved with the following conditions:

1. Highway Superintendent must be consulted regarding snow removal at Scotland Road to mitigate this potential problem in advance
2. Fence must be maintained and kept free of debris
3. Understanding that this is not an approval of a use variance to expand airport

An updated site plan must be submitted to the Planning Board for site plan approval.

John motioned to adjourn the meeting at 9:15PM, seconded by Bill and all approved.

Respectfully submitted,  
Christine B. Falkowski  
Recording Secretary